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May 10, 2022

VIA ECF

The Honorable Robert W. Lehrburger
United States District Court
Southern District of New York
500 Pearl Street, Courtroom 18D
New York, New York 10007

**Re: *Hess and Padilla v. Bed Bath & Beyond. Inc.*
Index No. 1:21-cv-4099-AT**

Dear Judge Lehrburger:

We represent Defendant Bed Bath & Beyond Inc. (“Bed Bath & Beyond”) in the referenced matter. We write pursuant to Your Honor’s Individual Practices I(F) to seek an adjournment of the hearing scheduled for May 12, 2022, regarding Plaintiffs’ request to amend the Second Amended Complaint (“SAC”) to the proposed Third Amended Complaint (“TAC”).

On April 18, 2022, Plaintiffs submitted a letter motion request for a conference regarding their proposed TAC and attaching the proposed TAC as an exhibit. ECF #66. On April 21, 2022, Bed Bath & Beyond submitted its opposition to Plaintiffs’ letter motion. ECF #67.

On May 5, 2022, Plaintiffs’ counsel contacted the undersigned stating:

I am writing regarding Defendants’ repeated contentions that Elizabeth Padilla and other managers are not covered by NYLL 191 nor can they comprise a class. While we disagree with this position, we are open to discontinuing without prejudice the claims of Elizabeth Padilla and other individuals who held the title of manager from this action.

On May 6, 2022, Defendant responded inquiring whether Plaintiffs intended to further amend the proposed TAC, and, if so, requesting that they provide Defendant with a proposed further amended complaint so that Defendant can evaluate it, and that Plaintiffs apprise the court of same.

On May 9, 2022, Plaintiffs’ counsel responded by confirming that Plaintiffs will be further amending, but stating that “. . . in light of the upcoming conference, further amending will only create confusion.”

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The undersigned agrees with Plaintiffs' counsel that any further amendments to the complaint will create confusion at the hearing currently scheduled for Thursday, May 12 where Plaintiffs have not yet served Defendant or filed with the Court any further amended complaint.

As such, Defendant respectfully requests an adjournment of the Parties' May 12 hearing before Your Honor until such time that Plaintiffs provide Defendant with any further amendments to the complaint they intend to propose so that Defendant can evaluate the merits of any further amendments and advise the Court with its position as to same. Defendant sought Plaintiffs' consent to this request via email yesterday and today and did not receive a response.

Thank you for Your Honor's Consideration of this matter.

Respectfully submitted,

/s/ Jeffrey H. Ruzal

cc: Steven Moser, Esq. (via ECF) Jeffrey H. Ruzal